IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

WP(C).No. 24893 of 2006(L)

PETITIONER:

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1. ROSELIN JOSEPH, W/O. T.C.JOSEPH,
   THANIKKAD, M.A.MATHEW ROAD,
   PALLURUTHY P.O., KOCHI-6.

2. T.C.JOSEPH,
   THANIKKAD, M.A.MATHEW ROAD,
   PALLURUTHY P.O., KOCHI-6.

BY ADV. SRI.T.I.DANIEL

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
   CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
   TRIVANDRUM.

2. SPECIAL SALE OFFICER / ASSISTANT
   REGISTRAR, CO-OPERATIVE SOCIETIES,
   ERNAKULAM DISTRICT CO-OPERATIVE BANK,
   ERNAKULAM.

3. THE JOINT REGISTRAR OF CO-OPERATIVE
   SOCIETIES (GENERAL), ERNAKULAM, KOCHI-16.

4. DAISY RAJAN,
   VASANTH NAGAR, AF 2-81,
   PALARIVATTOM.

ADDL. 5TH RESPONDENT

5. THE MANAGER,
   DISTRICT CO-OPERATIVE BANK, ERNAKULAM.
   (Impleaded as per the order dated 29.9.2006 in I.A.13370/06)

BY ADV. SRI.P.V.SURENDRANATH
GOVERNMENT PLEADER SRI. P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.p1- A PHOTO COPY OF THE COMPLAINT DATED 10.1.1995 FILED BY THE PETITIONERS TO THE S.I. OF POLICE PALLURUTHY POLICE STATION

EXT.P2- A PHOTO COPY OF THE NOTICE DATED 9.8.06 ISSUED BY THE JOINT REGISTRAR CO-OPERATIVE SOCIETIES, ERNAKULAM.

EXT.P3- A PHOTO COPY OF THE NOTICE DATED 16.9.06 ISSUED BY THE JOINT REGISTRAR CO-OPERATIVE SOCIETIES, ERNAKULAM.

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 24893/2006

Dated this 24th day of November, 2006

JUDGMENT

The writ petitioners are before this Court praying to direct the respondents 2 and 3, not to auction the property belonging to the petitioners under Exts.P2 and 3 notices, and also to give sufficient opportunity to the writ petitioners to prove their case, that they had not signed as guarantor for releasing of the loan by the additional fifth respondent, bank, to the fourth respondent, Daisy Rajan.

2. The facts reveal that the title deeds, produced before the additional fifth respondent, are in relation to the properties belonging to the petitioners. However, the submission of the learned counsel for the petitioners is that they had never guaranteed for the release of the loan, which is now alleged against them and having issued by the additional fifth respondent to the fourth respondent. The signatures found in the documents

maintained by the additional fifth respondent, bank, are disowned by the writ petitioners. However, it is submitted that the copy of the award had not been issued to the petitioners and the address shown are not correct.

3. The learned counsel for the additional fifth respondent, on the other hand, submits that the title deeds are original in nature and the averments contained in the petition itself show that the petitioners had handed over the title deeds of that property to the fourth respondent.

4. The facts mentioned by either side requires evidence. The copy of the award is not produced, as the petitioners had not received the same. The contention of the counsel is that the award itself was not challenged. The counsel for the petitioners, however, submitted that they have not received any notice.

5. In the above facts situation, I find that there is no scope to pass any order as prayed for, and the remedy available to the petitioners is to immediately

approach the appropriate forum for appropriate remedy.

6. The petitioners have not received the copy of the award and hence no appeal had been filed. The petitioners, therefore, are entitled to state all the facts, and challenge the award passed against them, allegedly even without notice to them. The non-issue of the award copy is, of course, a ground when urged shall be considered according to the law.

The writ petition is closed as above.

J.M.JAMES
JUDGE

mrcs